

**IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT  
OF PENNSYLVANIA**

|                                  |   |                      |
|----------------------------------|---|----------------------|
| Jeffrey Mona,                    | : | Civil Action No.:    |
| Plaintiff                        | : |                      |
|                                  | : | HON:                 |
| v                                | : |                      |
|                                  | : |                      |
| Scott's Splash Lagoon, Inc., and | : | Electronically Filed |
| Scott's Services, Inc.           | : |                      |
| Defendants                       | : |                      |

**Parties**

1. It is believed, and therefore averred, that Defendant Scott's Splash Lagoon, Inc., is a business corporation incorporated under the laws of the Commonwealth of Pennsylvania and whose principal business address is 8040 Peach Street, Erie, Erie County, Pennsylvania 16509.
2. It is believed, and therefore averred, that Defendant Scott's Services, Inc. is a business corporation incorporated under the laws of the Commonwealth of Pennsylvania and whose principal business address is 8040 Peach Street, Erie, Erie County, Pennsylvania 16509.
3. Plaintiff Jeffery D. Mona is an adult individual whose address is 10959 Hill Road, Conneautville, Crawford County, Pennsylvania 16406.

**Jurisdiction**

4. This Honorable Court has jurisdiction over Plaintiff's federal claims pursuant to 28 U.S.C.S § 1331.
5. This Honorable Court has jurisdiction of Plaintiff's Commonwealth statutory and common law claims pursuant to 28 U.S.C.S § 1367.

**Background Facts**

6. Jeffery Mona was employed by the Defendants from June 7, 1996 until May 22, 2006 (“Plaintiff’s Employment”).
7. During the Plaintiff’s Employment Jeffery Mona held the following titles:
  - a. General Manager/Supervisor of various hotels; and
  - b. Director of Operations.
8. During Plaintiff’s Employment Jeffery Mona was provided by Defendants with, among other things:
  - a. a laptop computer (“Plaintiff’s Work Computer”); and
  - b. an e-mail account (Plaintiff’s Work E-mail”).
9. Plaintiff’s Work E-mail address was [jdmona@erieinns.com](mailto:jdmona@erieinns.com).
10. Jeffery Mona established a private e-mail account through G-Mail.
11. Jeffery Mona’s E-mail address through G-Mail is [jdmona@gmail.com](mailto:jdmona@gmail.com) (“Personal E-mail Account”).
12. Under reasonable information and belief, G-Mail is a Web-based e-mail service owned by Google.
13. A new registrant to G-Mail is assigned a unique username and password, which is required to log on to G-Mail and access the registrant’s e-mail.
14. Under reasonable information and belief, e-mails sent from, received, and viewed by a user of a G-Mail account are stored on a remote server owned, maintained, and operated by Google.
15. Jeffery Mona used his Personal E-mail Account for non-work related matters.
16. Jeffery Mona owned a personal computer, which was located at his residence.

17. Jeffery Mona sent and received e-mails using his Personal E-mail Account from his personal computer.
18. On May 22, 2006, the Defendants fired Jeffery Mona.
19. On July 18, 2006, the Defendants initiated a lawsuit in the Common Pleas Court of Erie County (“Defendants’ Lawsuit”) against Jeffery Mona, Richard Coleman, and American Resort Management, LLC, a company partially owed by both Jeffery Mona and Richard Coleman.
20. In their lawsuit the Defendants allege, *inter alia*, that Jeffrey Mona and his co-defendants had breached a fiduciary duty allegedly owed to the Defendants by competing with the same during working hours.
21. Jeffrey Mona and his co-defendants, through interrogatory, requested that the Defendants state the type of evidence they possessed which would substantiate the Defendants’ claim that Jeffrey Mona and his co-defendants competed with the Defendants during working hours.
22. The Defendants responded to the interrogatory by claiming that they possessed e-mail evidence (the “E-mails”).
23. On March 31, 2008, Jeffrey Mona and his co-defendants requested that the Defendants produce the E-mails.
24. On April 4, 2008, Defendants, by and through their legal counsel, produced the E-mails by forwarding printed copies of the same via regular mail.
25. The E-mails were numbered SCOTT’S 00001 – SCOTT’S 00208 .
26. The E-mails contain messages from the inbox and sent items box of Jeffrey Mona’s Personal E-mail Account.

27. The E-mails also contain messages obtained through a search of the Personal E-mail Account for the word "Lehr07".

**Facts Related to the Unauthorized Access to Stored Electronic Communication**

28. Between May 16, 2006, and May 21, 2006, Jeffery Mona was absent from work to attend his grandfather's funeral ("Work Absence")

29. It is believed, and therefore averred, that on May 19, 2006, during the Work Absence, an employee or agent of the Defendants accessed Jeffrey Mona's Personal E-mail Account.

30. It is believed, and therefore averred, that on May 19, 2006, during the Work Absence, an employee or agent of the Defendants obtained copies of e-mails from Jeffrey Mona's Personal E-mail Account.

31. Jeffery Mona never authorized employees or agents of the Defendants to access his Personal E-mail Account.

**Count One For Violation of 18 U.S.C.S. § 2701 et. seq.**

32. Plaintiff hereby incorporates all the preceding paragraphs by reference as if each were fully set forth at length herein.

33. The Defendants through an employee or authorized agent, intentionally accessed e-mails from Jeffery Mona's Personal E-mail Account without his authorization.

34. The E-mails on Jeffery Mona's Personal E-mail Account are stored on a facility that provides an "electronic communication service" as that phrase is defined at 18 U.S.C.S § 2510.

35. The Defendants' actions were willful, intentional, and in bad faith.

WHEREFORE, the Plaintiff hereby requests: such preliminary and other equitable or declaratory relief as this Honorable Court finds appropriate; actual damages incurred by Jeffrey Mona; punitive damages; reasonable attorney fees; and reasonable costs of litigation

**Count Two For Violation of 18 Pa.C.S. § 5747**

36. Plaintiff hereby incorporates all the preceding paragraphs by reference as if each were fully set forth at length herein.

37. The Defendants through an employee or authorized agent, intentionally accessed e-mails from Jeffery Mona's Personal E-mail Account without his authorization.

38. The E-mails on Jeffery Mona's Personal E-mail Account are stored on a facility that provides an "electronic communication service" as that term is defined at 18 Pa.C.S. § 5701.

39. The Defendants' actions were willful, intentional, and in bad faith.

WHEREFORE, the Plaintiff hereby requests: such preliminary and other equitable or declaratory relief as this Honorable Court finds appropriate; actual damages incurred by Jeffrey Mona; punitive damages; reasonable attorney fees; and reasonable costs of litigation

**Count Three For Common Law Invasion of Privacy**

40. Plaintiff hereby incorporates all the preceding paragraphs by reference as if each were fully set forth at length herein.

41. The Defendants through an employee or authorized agent, intentionally accessed e-mails from Jeffery Mona's Personal E-mail Account without his authorization.

42. The Defendants' actions were willful, intentional, and in bad faith.

43. The Defendants' unauthorized access to Jeffrey Mona's Personal E-mail Account was a substantial intrusion and invasion of his privacy.

WHEREFORE, the Plaintiff hereby requests: such preliminary and other equitable or declaratory relief as this Honorable Court finds appropriate; actual damages incurred by Jeffrey Mona; punitive damages; reasonable attorney fees; and reasonable costs of litigation

**CULBERTSON, WEISS, SCHETROMA AND SCHUG, P.C.**

By: /s/ Dearald W. Shuffstall  
**Dearald W. Shuffstall, Esquire** (74868)

By: /s/ Brian J. Pulito  
**Brian J. Pulito, Esquire** (203952)

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Attorneys for Plaintiff

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**DEMAND FOR JURY TRIAL**

The Plaintiff hereby demands this matter to be heard as a jury trial.

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